

**UNITED STATES DISTRICT COURT
DISTRICT OF MAINE**

MARK J. ROBERTS,)	
)	
Plaintiff,)	
)	
v.)	
)	
OFFICE OF THE STATE FIRE)	Civil Action No.: 1:21-cv-00297-JAW
MARSHAL, State of Maine,)	
Department of Public Safety)	
)	
And)	
)	
JOSEPH E. THOMAS, individually)	
and in his official capacity as State		
Fire Marshal,		
Defendants		

NOTICE OF DISMISSAL

Pursuant to Rules 41(a)(1)(A)(i) and 41(a)(1)(B) of the Federal Rules of Civil Procedure, Plaintiff Mark J. Roberts dismisses this action in its entirety without prejudice. The reasons for this notice of dismissal are as follows:

- 1) On October 14, 2021, Mr. Roberts filed his Complaint in the instant matter. ECF No. 1.
- 2) The State has not filed an answer, and it has not filed a motion for summary judgment. Fed. R. Civ. P. 41(a)(1)(A)(i).
- 3) Mr. Roberts has not previously dismissed any Federal or State court action based on or including the same claim. Fed. R. Civ. P. 41(a)(1)(B)

- 4) On December 14, 2021, Defendants filed a Motion to Dismiss for Lack of Jurisdiction and Failure to State a Claim. ECF No. 5.
- 5) In their Motion to Dismiss, Defendants asserted, among other things, that Counts II, III and IV of the Complaint should be dismissed because the State did not consent to be sued in Federal Court. ECF No. 5 at 12 – 14.
- 6) Defendants are correct that Mr. Roberts did not first seek the State's consent to be sued in Federal Court.
- 7) On January 11, 2022, Mr. Roberts sought the State's consent to either be sued in Federal Court or to dismiss the instant matter by agreement and litigate the matter in State Court.
- 8) On January 14, 2022, Counsel for the State indicated that the State would object to being sued in Federal or State Court.
- 9) As the State will not consent to being sued in Federal Court, Mr. Roberts elects to dismiss the instant matter and pursue all his claims, which all arise from the same set of circumstances, in one action in State court.

Dated: January 24, 2022

/s/ Jonathan M. Goodman
Troubh Heisler LLC
200 Professional Drive, Suite 2
Scarborough, ME 04074
Tel: (207) 780-6789
Fax: (207) 774-2339
e-mail: jgoodman@troubhheisler.com

CERTIFICATE OF SERVICE

I hereby certify that on January 24, 2021, I electronically filed Defendant's Notice of Dismissal with the Clerk of the Court using the CM/ECF system, which will send notification of such filings to Valerie A. Wright, Esq.

/s/ Jonathan M. Goodman

Jonathan M. Goodman

Attorney for Plaintiff Mark J. Roberts